



Health Systems Division

Kate Brown, Governor



500 Summer Street NE, E35
Salem, OR 97301

www.oregon.gov/oha

Date: August 27, 2019

By Registered Mail and Email

To: Tayo Akins, President and CEO
Cascade Health Alliance, LLC
2909 Daggett Ave., St. 225
Klamath, OR 97601-7200

From: Lori Coyner, State Medicaid Director
Health Systems Division

Subject: Review of CHA Findings Related to Hepatitis C treatment

Dear Mr. Akins:

The Oregon Health Authority (OHA) on May 20, 2019, sent Cascade Health Alliance (CHA) a Notice of Noncompliance and Order Requiring Corrective Action relating to Hepatitis C Medications. OHA received documentation from CHA related to 2018 and 2019 Hepatitis C treatment. OHA has reviewed both 2018 and 2019 Hepatitis C documentation that was provided by CHA. After review of CHA's 2018 documentation, it is evident CHA was not in compliance with contractual requirements for timely and appropriate medical treatment for individuals with Hepatitis C as follows:

1. CHA did not provide medically appropriate services that Contractor is required to provide (Direct Acting Antiviral Drugs for treatment of Hepatitis C) under law or under its Contract with OHA, to a member covered under the Contract. OHA found unreasonable barriers and delays to care that limited treatment access in comparison to what was available for fee-for-service members. (Exhibit B, Part 2 (1) (a), (c) and (d) and Exhibit B, Part 2 (2) (a) and (b); OAR 410-141-3225(5); 42 CFR 438.210 (a)).
2. CHA's process and procedure for authorization and denial of medications for treatment of Hepatitis C did not comply with Federal requirements, State law and Contract provisions for authorization of covered services. Of the documentation provided to OHA for review, the cases that had prior authorization requests submitted to CHA waited months to be approved for treatment. (Exhibit B, Part 2

(3) (g), (i), (n) and (o) and Exhibit I (3); OAR 410-141-3225(9) (b); 42 CFR 438.210 (a)).

3. CHA did not timely dispense authorized medications to treat members with Hepatitis C who met OHP prior authorization criteria as required. (Exhibit B, Part 2 (2) (a) and (b); Part 4 (2) (a); 42 CFR 438.210 (a)).
4. CHA did not provide notice to members and providers within federal, state and contractually required timeframes of its adverse benefit determinations for Hepatitis C medications. (42 CFR 438.404; Exhibit B, Part 2 (3) (g), (i), (n) and (o); OAR 410-141-3225 (9) (d)). Any authorization request submitted to CHA where a decision was not reached within the timeframes specified in rule constitutes a denial and becomes an adverse benefit determination. A notice of adverse benefit determination shall be issued no later than on the date the timeframe expires.

Attached is a summary of OHA's findings for CHA's 2018 Hepatitis C documentation. Based on OHA's review of CHA's 2019 documentation, there are no concerns at this time with the documentation provided. OHA will continue to monitor quarterly reports submitted to OHA of all Hepatitis C medication authorization requests and CHA's resulting actions, including time to decision and time to member notification. The first quarterly report shall be submitted no later than July 15, 2019, and quarterly reporting shall continue for a period of at least one (1) year and until such time as notified by OHA quarterly reporting is no longer required.

OHA established a risk corridor payment mechanism to help CCO's offset the cost of Hepatitis C treatment. A component of that payment is Administrative Revenue (Admin. Revenue). Exhibit C, section 6. B. (3.) (d.) provides, in part: "Contractor will be required to return a portion of the Hepatitis C DAA Admin Revenue to OHA if OHA determines, in its sole discretion, that Contractor failed to perform adequate case management for Hepatitis C DAA Drugs." "Adequate Case Management" was defined and established in a separate policy that applied to the 2017 CCO contract and was unchanged for the 2018 CCO Contract. A copy of that definition is attached to this letter.

Because of the above findings regarding CHA's treatment for members with Hepatitis C in 2018, particularly given that treatment was delayed for most members by months, OHA does not believe CHA met the requirements for adequate case management for these members for a significant portion of 2018. Accordingly, OHA has determined CHA is not entitled to Admin Revenue for Adequate Case Management for 2018 and, as a remedy, proposes to withhold that portion of the Hepatitis C Risk Corridor payment.

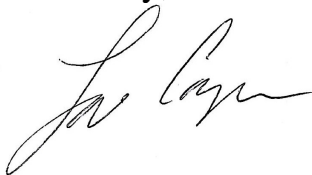
OHA believes this action achieves a fair and equitable resolution of CHA's failure to adequately treat individuals with Hepatitis C in 2018, in lieu of a civil penalty. If you

do not agree, OHA will be required to consider the imposition of civil penalties as set forth in the Contract for these violations. If civil penalties are imposed, OHA would consider these violations to constitute discrimination among CHA's members on the basis of their health status or their need for health care services. As such, CHA would be subject to civil penalties of up to \$100,000 for each determination of discrimination on the basis of a member's health status or need for health care services as permitted by 42 USC 1396u-2(e)(2) and Exhibit D, sections 33 through 36 of the Contract.

As required by the Contract, OHA would like to meet with you to confer on the amount to which CHA is entitled under the Contract for the Hepatitis C Risk Corridor payment and the proposed withholding of \$148,347 Admin Revenue portion of the Hepatitis C Risk Corridor payment. Please let me know when your earliest availability would be to meet.

Dated this 27th day of August, 2019.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lori Coyner".

Lori, Coyner, State Medicaid Director
Health Systems Division
Oregon Health Authority

Attachments (2)

cc: Maggie Polson, Chief Operations Officer, CHA
David Shute, Medical Director, CHA
Dawn Jagger, OHA Chief of Staff
Margie Stanton, Health Systems Division Director
Allison Tonge, Interim CCO Contract Administrator